



WISCONSIN STATE REPRESENTATIVE  
**Louis J. Molepske, Jr.**  
71ST ASSEMBLY DISTRICT

**ASSEMBLY BILL 497**

**THE ADVANCED PRACTICE NURSE EXPANSION ACT**

- I. **Current Law**-A number of our state agencies are currently being affected by the well-publicized health care provider shortage in the State of Wisconsin (see Section III below). For a number of reasons, many of our state agencies simply do not have the resources necessary to adequately address the medical needs of our constituents. Although this is obviously a large scale issue, a number of these problems could be alleviated by several statutory amendments. For example:
- A. Under current law, the Department of Veterans Affairs (DVA) may grant assistance to needy veterans who have suffered a loss of income due to illness, injury or natural disaster. By administrative rule, illness or injury as a physical or mental health problem *may only be diagnosed by a physician, dentist, optometrist or audiologist.*
  - B. Under current law, the Department of Transportation (DOT) may require an operator's license applicant or licensee to submit to a special examination to determine incompetency, physical or mental disability, disease, or any other condition that might prevent the applicant or licensee from exercising reasonable and ordinary care over a motor vehicle. If the DOT receives a report from a physician, advanced practice nurse prescriber, or optometrist, DOT must determine whether the operator should submit to a special examination. *However, advanced practice nurse prescribers cannot conduct or certify this special examination.*
  - C. Under current law, the Department of Natural Resources (DNR) is authorized to issue certain hunting permits that authorize hunting by persons who have a physical disability or who are visually handicapped. In order to obtain a specialized permit from the DNR, a person must submit an application furnished by the DNR that includes a statement or report prepared and signed only by a *licensed physician or chiropractor* verifying that the applicant is physically disabled.
- II. **Assembly Bill 497:** This bill makes several minor changes to current law that may save our governmental agencies time and money, lowering health care costs and increasing departmental efficiency in the process.



- A. Assembly Bill 497 expands current law to allow certified advanced practice nurse prescribers to diagnose an illness or injury for Department of Veterans Affairs purposes.
- B. Assembly Bill 497 codifies current departmental practices that state that a special examination of a driver's license required by the Department of Transportation may be conducted by, and the results of the examination certified by, a physician, certified advanced nurse prescriber or optometrist.
- C. Assembly Bill 497 allows certified advanced practice nurse prescribers to submit a statement, report or recommendation in support of a specialized hunting permit.
- D. Expanding the duties of advanced practice nurses in a limited capacity is a safe and cost-effective means of addressing the health care provider shortage in the State of Wisconsin. In addition, it may help to lower health care costs and bureaucracy at state agencies.
- E. This legislation is supported by the *Wisconsin Nurse's Association*, Wisconsin Podiatry Association, nurse practitioners and others.

### III. The Need

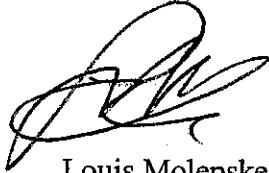
- A. The State of Wisconsin is currently experiencing a significant health care provider shortage.
- B. In addition, due to a variety of factors, Wisconsin is also experiencing an increased demand on the health care system.
  - i. According to the United States Bureau of Labor Statistics, the growth of an aging population and longer life expectancies contribute to the expected 30% growth (or 4.3 million new jobs) in health care related fields in the next eight years.
    - a. It is expected that there will be 36,000 new jobs in health care in Wisconsin by the year 2014.
    - b. According to the 2007 Wisconsin Health Care Workforce Annual Report, registered nurses, medical assistants, and dental assistants will be the occupations with the most new jobs.
    - c. In order to keep up with the demand, Wisconsin will need 26,110 new and replacement registered nurses by the year 2014, an increase of 33.1%.



- B. Certified advanced practice nurse prescribers receive extensive training and are closely regulated by both state and federal laws. In Wisconsin, certificate requirements for advanced practice nurses are governed by the Wisconsin Board of Nursing pursuant to Wis. Stat. § 441.16(2).
- C. Some 60% to 80% of primary and preventative care traditionally done by doctors can be done by nurses at a lower cost.
  - i. This is due to a variety of factors, including cost of liability insurance, employment setting and cost of education.
  - ii. Depending on the clinic by which they are employed, certified advanced practice nurse prescribers have the ability to prescribe medication without a doctor's prior approval.
- D. Certified advanced practice nurse prescribers have helped to extend medical services to chronically underserved populations in the United States such as the elderly, the poor and those in rural areas.

Thank you very much for your consideration of this proposal.

Sincerely,



Louis Molepske, Jr.  
State Representative  
71<sup>st</sup> Assembly District



11/18/07

Representative Vukmir,

I was informed that AB 497 will be up for public discussion this Tuesday. I would like to address a couple of issues in regards to this Bill improving advance practice nurse practice in the State of Wisconsin. As a nurse practitioner, I would encourage you to support this Bill.

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It appears that the DOT has already made changes in their policy and does allow APNP's to sign the DOT's medical clearance forms.

The DNR forms are similar to the DOT's but do not allow us to evaluate and sign the forms even after a full OT/PT evaluation. I suspect this is old language and the change would allow for more expeditious issuance of the special hunting permits to those handicapped residents who qualify.

The Wisconsin VA states that they require a MD signature for their paperwork and recommend that the only way this would change would be via the legislature. I work for the Milwaukee VA and signing the forms would again expedite the needy grant program for these eligible Veterans. Many, if not most, Veterans in primary care at the Milwaukee VA's see non-physician providers. This is a barrier to efficient practice.

Thank you for support of AB 497.

Sincerely,

Tim Wittwer







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6117 Monona Drive • Suite 1 • Madison, Wisconsin 53716-3995 • (608) 221-0383 • FAX (608) 221-2788  
*info@wisconsinnurses.org • www.wisconsinnurses.org*

TO: Representative Leah Vukmir, Chairperson and other Members of the Assembly  
Committee on Health and Health Care Reform  
FROM: Gina Dennik-Champion MSN, RN, MSHA  
Executive Director, Wisconsin Nurses Association  
DATE: November 20, 2007  
RE: Support for AB 497 – Inclusion of Certified Advanced Practice Nurse Prescribers to  
Selected State Statutes.

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Good morning Chairperson Vukmir and other members of the Committee. My name is Gina Dennik-Champion. I am a RN and the Executive Director of the Wisconsin Nurses Association (WNA). I am here on behalf of WNA and I want to extend their appreciation for holding a hearing on AB 497. WNA supports AB 497 because it increases patient access to timely and quality health care services.

#### Background

In 2005, the Wisconsin State Legislature, under the leadership of Rep. Vukmir, considered and approved a legislative proposal that amended a variety of statutes to include Certified Advanced Practice Nurse Prescribers (APNPs) as an additional health care practitioner. Since this time, other areas in the statutes have been identified that are creating delays in patient care and services. These areas are identified in AB 497.

#### Overview of Proposed State Statutes Inclusion of APNPs in AB 497

AB 497 addresses three state statutes where it would be reasonable to include APNPs. These sections are as follows:

1. State Statute 29.193 – Department of Natural Resources - adds an APNP to the list of other two health care practitioners, physicians and chiropractors, who are recognized by the Department of Natural Resources to conduct a physical assessment and complete an application verifying that an individual has a physical disability. This determination is used by the DNR to issue a Class B hunting permit.
2. State Statute 45.40 - Department of Veterans Affairs – addresses how a veteran becomes eligible for receiving aid from the DVA when the condition is medically related. The statute is amended to include APNPs to the list of other practitioners that can complete the health care form indicating the veteran's medical condition. These other practitioners are audiologist, dentist, optometrist and physicians.
3. State Statute 343.16 – Department of Transportation - adds APNPs as another health care provider that the Department of Transportation can seek out when requesting that a special examination is performed to assist in determining a person's ability to operate a motor vehicle.

WNA supports these amendments because what we are finding is that APNPs, because of where they work and who they provide care to, are already performing these assessments and signing these forms. Sometimes the forms are processed by the state agencies and other times they are being returned for physician co-signature. This type of delay can be removed by amending these statutes.

### Overview of APNP Scope of Practice

Wisconsin's 2,500 APNPs are licensed registered nurses with additional formal educational preparation that includes advanced clinical assessment with a resultant Master's Degree in Nursing as an Advanced Practice Nurse. These APNPs can become Board Certified by a nationally recognized credentialing center, as a Nurse Practitioner (NP), Clinical Nurse Specialist (CNS), Certified Nurse Midwife (CNM) or Certified Registered Nurse Anesthetist (CRNA). If desired, the APN can receive a certificate as an APNP that is issued by the Department of Regulation and Licensing. DR&L will issue the APNP certificate only if the educational requirements and credentials are verified, in addition to the passing of a jurisprudence exam. The ongoing issuance of the certificate by the DR&L can continue only if there is evidence of completion of the necessary continuing education and maintaining liability insurance coverage.

These APNPs were granted authority to practice within their advanced practice nursing scope of practice in 1993 through the creation of State Statute Chapter 441.16 and Administrative Rule N-8. The scope of practice of the APNP emphasizes health promotion, disease prevention, advanced physical assessment, clinical management, ordering diagnostic and therapeutic procedures including laboratory and radiographics, diagnosing clinical conditions, prescribing and administering pharmacological agents and treatments. The scope of practice and these elements will focus on the specific education, training and experience that the APNP possess. In other words, you will not find an APNP whose expertise and board certification is in the care of the older adult patient providing care to pediatric (kids) populations. This would be as unacceptable as a dermatologist performing neurosurgery.

In addition, APNPs must have a documented collaborative agreement with a physician in order to practice. They must carry liability insurance with occurrence coverage of \$1,000,000 for each occurrence and \$3,000,000 for all occurrences. This required amount is higher than for some of the other providers listed in the statutes.

### Conclusion

WNA extends sincere thanks to Rep. Louis Molepske for sponsoring this legislative proposal. I also want to thank Chairperson Vukmir and the members of the Assembly Health Committee for allowing me to provide testimony. We truly appreciate your support of the improvements to patient care and to the profession of nursing, which will be a result of this legislation. This legislation is not an expansion of the APNP practice but rather, codification of the work that APNPs try to perform on a regular basis on behalf of their patients.

I will gladly answer any questions that you may have.



# Wisconsin Medical Society

Your Doctor. Your Health.

TO: Members, Assembly Committee on Health and Healthcare Reform  
Representative Leah Vukmir, Chairperson

FROM: Mark Grapentine, JD – Senior Vice President, Government Relations  
Jeremy Levin – Government Relations Specialist

DATE: November 20, 2007

RE: Opposition to Assembly Bill 497 - Advanced Practice Nurse Expansion Act

On behalf of the more than 11,000 members of the Wisconsin Medical Society, thank you for this opportunity to testify on Assembly Bill 497, which includes a provision allowing certified advanced practice nurse prescribers (APNPs) to diagnose an illness or injury.

The Society's opposition lies with Section 5 of the bill, which would create a new element of an APNP's scope of practice: the ability to make a general diagnosis of a veteran's injury or illness. While this legislation is well-intentioned in its goal to help alleviate a health care provider shortage, the Society does not believe that our current shortage necessitates legislation that allows for APNPs to exceed their current scope of practice limits, as determined by the Board of Nursing, by expanding to allow for the "diagnosis" of a physical or mental health problem. AB 497 could be interpreted to grant APNPs authority to perform a medical diagnosis, which state statutes and various administrative code provisions place squarely in the physicians' realm.

Section 5 of the bill defines how a "health care provider" may determine an "illness" or "injury" of a physical or mental health problem through making a diagnosis. This portion of the bill relates to Department of Veteran Affairs (DVA) assistance programs. As is stated in the Legislative Reference Bureau's analysis, "By rule, DVA has defined an illness or injury as a physical or mental health problem that is diagnosed by a physician, dentist, optometrist, or audiologist." The bill seeks to expand the ability to diagnose to APNPs. It is worthwhile to note that this assistance program offers veterans a health care aid or a subsistence aid. Under Administrative Code VA 2.01 (1)(L) "'Health care' means dental care, dentures, hearing care, and vision care."

State statutes very carefully manage which health care professional can make which kind of diagnosis. For example, the Medical Practices Act – chapter 448 of the statutes – defines the "Practice of medicine and surgery" as:

- (a) To examine into the fact, condition or cause of human health or disease, or to treat, operate, prescribe or advise for the same, by means of any means or instrumentality.
- (b) To apply principles or techniques of medical sciences in the diagnosis or prevention of any conditions described in par. (a)...

In comparison, the enabling nursing statutes – contained in ch. 441 – do not contain such broad discretion, and clearly state that any medical acts can be provided only upon a physician's delegation (and then only when there are protocols or written or verbal orders – see N 6.03(2)(a)). The Nursing administrative code – specifically N 6.02(8) – also has a special definition for “Nursing diagnosis”:

“Nursing diagnosis” means a judgment made by an R.N. following a nursing assessment of a patient's actual or potential health needs for the purpose of establishing a nursing care plan.

Other references to diagnoses in the statutes contain similar specific titles (i.e. “chiropractic diagnosis” in s. 460.01(4)) or limiting language (s. 448.50(1r), definition of “diagnosis” for physician therapists specifically excludes “medical diagnosis”).

APNPs have additional opportunities to provide additional patient care, as detailed in N 8 of the Administrative Code, but not to provide a general medical diagnosis. This follows the state's general stance for non-physician practices; by rule, an APNP must limit his or her practice to certain actions and to areas of his or her competence, as established by education, training or experience (Admin. Code N 8.06 and N 8.10). Nowhere in statutes or administrative code is an APNP allowed to make the type of medical diagnosis that section 5 can be interpreted to create.

The Society believes the bill's good intentions in this area could be better accomplished through rule changes to VA 2, which is the model for AB 497's section 5. Rather than create new stand-alone statutory language that could result in unintended consequences, we suggest exploring administrative code changes to integrate the potential for APNP expertise into efforts to assist needy veterans.

Thank you again for the opportunity to provide this testimony. If you have any further questions or need additional information, please feel free to contact Mark Grapentine at [markg@wismed.org](mailto:markg@wismed.org) or Jeremy Levin at [jeremyl@wismed.org](mailto:jeremyl@wismed.org). Both can be reached at (608) 442.3800.

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(Dick Sweet)



Jim Doyle, Governor  
John A. Scocos, Secretary

**STATE OF WISCONSIN, DEPARTMENT OF VETERANS AFFAIRS**

30 West Mifflin Street, P.O. Box 7843, Madison, WI 53707-7.  
PHONE: (608) 266-1311 1-800-WIS-VETS (947-83)  
E-MAIL: Headquarters@dva.state.wi.gov  
WEB SITE: www.dva.state.wi.gov  
FAX: (608) 267-0100

November 20, 2007

Rep. Leah Vukmir, Chair  
Committee on Health and Healthcare Reform  
Wisconsin State Assembly  
Madison, WI 53707

**SUBJECT: 2007 Assembly Bill 497**

Dear Chair Vukmir and Committee Members,

As you consider 2007 Assembly Bill 497, we appreciate the opportunity to provide information regarding this legislation, which, among other things, would allow for the diagnosis of a medical condition (illness or injury) by an Advanced Practice Nurse Prescribers (APNPs) for the purposes of qualification for the Assistance to Needy Veterans (ANV) grant program administered by the Wisconsin Department of Veterans Affairs (WDVA).

Below is additional information about the ANV grant program, and information regarding a currently ongoing review of this program.

Frequently, veterans seeking assistance under the program obtain the required medical determination from VA physicians. We have requested information from the federal VA to determine whether there are any federal laws or rules that would specifically allow or disallow APNPs in diagnosing or completing the necessary documentation for a veteran applying for ANV grant program assistance.

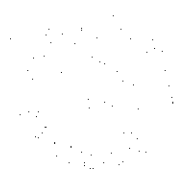
**BACKGROUND: ABOUT THE AID TO NEEDY VETERANS (ANV) PROGRAM**

The ANV program has two primary components; (1) a *health care aid* component that supplements and complements the health care benefits currently provided by the U.S. Department of Veterans Affairs (VA); and, (2) a *subsistence aid* component that provides emergency cash grants to veterans who have experienced a loss of income due to illness, injury, or disaster.

**Health Care Aid.** The ANV program provides financial assistance for three areas of health care generally not provided by the federal VA for most veterans: (a) vision care, such as eyeglasses; (b) hearing care, such as hearing aids; and, (c) dental care, such as dentures. A documented diagnosis showing medical need is required.

**Subsistence Aid.** The ANV program provides emergency cash grant assistance when there is a loss of income due to illness, injury, or natural disaster. Grants are awarded for subsistence aid for a 30-day period, up to a maximum of three months. In cases related to illness or injury, a documented diagnosis showing medical need is required.

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**Payer of Last Resort.** The ANV program is a Veterans Trust Fund program that provides limited financial assistance to eligible, qualifying Wisconsin veterans, and to certain veterans' surviving or dependent spouses and children in need, who have exhausted all other sources of aid (a payer-of-last-resort program). Applicants must have applied for and been denied or determined to be ineligible for all other applicable aid programs, including Unemployment Insurance, Medicaid, Medicare, BadgerCare, VA health care, etc.

**Grant Amounts.** The maximum ANV grant for subsistence aid is \$3,000 in any consecutive 12-month period. There is a lifetime cumulative ANV grant award limit per veteran of \$7,500.

**Need-based Limits.** Combined household income cannot exceed *130% of current federal poverty guidelines*; liquid assets cannot exceed \$1,000.

**Funding Source.** The Veterans Trust Fund is the funding source for the ANV program. The Veterans Trust Fund is a non-renewable state segregated fund that currently has limited sources of revenue, and substantial annual outlays. It last received state support in 1988.

### WDVA REVIEW CURRENTLY IN PROCESS

As part of an ongoing series of program reviews, a Process Action Team (PAT) was convened and is currently debating issues related to the ANV program, including the issue of APNP versus M.D. diagnoses.


According to the department's chief legal counsel, the basis of current law with regards to requiring a physician to make diagnoses is that ANV is a payer of last resort program. Programs to which a veteran must first apply, if eligible, include, among others: federal VA service-connected disability compensation; Social Security Disability Insurance; and Income Continuation Insurance (ICI) for interim salary assistance. All require a similar determination by a physician.

The department's current position is that all would be best served by continuing to support current law until the department's PAT has concluded its work and management has had an opportunity to review its findings and recommendations.

Receiving information from the federal VA on whether there are any federal laws or rules that would specifically allow or disallow APNPs in diagnosing or completing the necessary documentation for a veteran applying for ANV grant program assistance is an important component of this review.

Thank you in advance for any assistance you can provide. Please feel free to contact Anthony Hardie, WDVA Executive Assistant, at (608) 266-1315.

Sincerely,  
WISCONSIN DEPARTMENT OF VETERANS AFFAIRS

  
WILLIAM J. KLOSTER  
Acting Secretary

Encl.  
WJK:adh





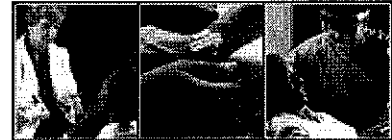


## UNITED STATES DEPARTMENT OF VETERANS AFFAIRS

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There are tremendous opportunities available within the VA health care system for Nurse Practitioners (NPs) to practice independently in a variety of settings -- hospital outpatient clinic, nursing home, domiciliary, and even home care. With a high degree of accountability and greater responsibilities, NPs assure that the care delivered to our Nation's veterans is focused on the patients' health care needs. In this effort, they have the support of other clinicians within VA. NPs provide a continuum of high-quality care in a timely, responsive, and caring manner now and into the future -- a future for the new veterans health care system supporting innovation, empowerment, productivity, accountability, and continuous improvement, in addition to recognizing the important and cost-effective contributions of NPs.

To VA, the motto "Putting Veterans First" means utilizing NPs as individual primary care providers in both the home and hospital setting to respond effectively and efficiently to patients' health care needs. NPs are responsible for delivering essential and preventive care, providing patient and family education, and coordinating all care services.

Specific services provided in a high-quality and cost-efficient manner by NPs at VA facilities nationwide include:

- Obtaining medical histories and performing physical examinations
- Diagnosing and treating many health problems
- Ordering and interpreting laboratory and diagnostic studies and procedures, including x-rays and other tests
- Prescribing pharmacologic and non-pharmacologic treatments.

Aside from primary care, NPs are involved in other clinical settings serving this Nation's veterans, including Endocrinology, Orthopedics, Dermatology, HIV, Nursing Home/Long Term Care Units, Psychiatric Units, Psychiatric Services, Outpatient Clinics, Geriatric Research, and Evaluation Units, to name but a few.

In addition to autonomous practice, collegial relationships, and a supportive environment, VA offers a wealth of opportunities for NPs to extend their capabilities.

VA makes every effort to offer employees many different avenues for intellectual stimulation and professional advancement. VA supports attendance at conferences, educational sessions, and scientific meetings where NPs can maintain current knowledge of practice and professional issues. As one of the largest research organizations in the U.S., VA also encourages its employees to prepare publications derived from practice, education, or research that contribute to the advancement of health care.

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11/18/07

Representative Vukmir,

I was informed that AB 497 will be up for public discussion this Tuesday. I would like to address a couple of issues in regards to this Bill improving advance practice nurse practice in the State of Wisconsin. As a nurse practitioner, I would encourage you to support this Bill.

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Thank you for support of AB 497.

Sincerely,

Tim Wittwer

